

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2006-0528, McLaughlin Real Estate, LLC & a. v. Town of Wakefield & a., the court on May 9, 2007, issued the following order:

The petitioners, McLaughlin Real Estate, LLC, and Charles and Charletta McLaughlin, appeal an order of the trial court denying their appeal pursuant to RSA 677:15. The court upheld a determination by the Town of Wakefield Planning Board that the petitioners' two applications for minor subdivisions were not permitted under the town's subdivision regulations and also affirmed the board's denial of their request for a waiver. The petitioners present several arguments on appeal. Because we conclude that the trial court erred in construing the town's subdivision regulations, we limit our review to that issue.

At the time the petitioners submitted their applications for minor subdivision approval, the Wakefield subdivision regulations provided: "These regulations shall have four possible applications" The listed applications included "minor subdivision" and provided three possible types, including "the division of a parcel into three or fewer new parcels fronting on an existing street, with no potential for re-division, and not requiring the upgrade of municipal services." The board construed this provision to bar future subdivision if the parcel had previously received minor subdivision approval. The petitioners argue that the plain meaning of the regulation "does not preclude future subdivision, but only defines what parcels are eligible to be considered as minor subdivisions." In this case, the parcel in question did still have "potential for re-division."

The interpretation of a municipal ordinance or regulation is a question of law, which we review de novo. See Harrington v. Town of Warner, 152 N.H. 74, 79 (2005). The traditional rules of statutory construction generally govern our review; we construe the words and phrases of a regulation according to the common and approved usage of the language. See id. When the language of a regulation is plain and unambiguous, we need not look beyond it for further indications of legislative intent. See id. Moreover, we will not guess what the drafters of the regulation might have intended, or add words that they did not see fit to include. Id.

The Wakefield regulations set forth extensive requirements for subdivision including standards that address road design, monumentation and lot size. The respondents cite no regulation other than the minor subdivision provision and we

have found no regulation to support their contention that minor subdivision approval for a parcel of land bars future minor subdivision approval for that same parcel. Absent an express provision to apprise current or potential landowners that minor subdivision approval may only be obtained once, we conclude that the trial court erred in upholding the decision of the board to deny the applications for subdivision on that ground. Id. We express no opinion as to the legality of such a blanket provision were the town to adopt it.

Reversed and remanded.

DALIANIS, GALWAY and HICKS, JJ., concurred.

**Eileen Fox,
Clerk**